

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Meredith Manheimer and Tyler Manheimer (h/w)

(b) County of Residence of First Listed Plaintiff Burlington, NJ

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Adam S. Barrist, Esq., The Barrist Firm, LLC
2 Eves Drive, Suite 105
Marlton, NJ 08053

DEFENDANTS

BJ's Wholesale Club, Inc., and John Does 1-10, and
XYZ Corporations 1-10

County of Residence of First Listed Defendant Worcester, Massachusetts

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

John M. Wutz, Esq., The Chartwell Law Offices, LLP
302 Harper Drive, Suite 205
Moorestown, NJ 08057

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES |
|---|---|--|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | SOCIAL SECURITY <input type="checkbox"/> 861 IIIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Suit for Damages for Premises Liability for Personal Physical/Emotional Injuries

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
In excess of \$150,000.00


CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 7/5/17 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MEREDITH MANHEIMER

and

TYLER MANHEIMER (h/w)

Plaintiffs,

v.

BJ'S WHOLESALE CLUB, INC.

and

JOHN DOES 1-10 (said names being fictitious)

and

XYZ CORPORATIONS 1-10 (said names being
fictitious)

Defendants.

:
: CIVIL ACTION
:

: No. _____
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COMPLAINT

Plaintiffs, Meredith Manheimer and Tyler Manheimer (h/w) ("Ms. Manheimer" and "Mr. Manheimer," respectively; collectively, "Plaintiffs"), through their undersigned attorneys, bring the following Complaint against the above-captioned Defendants, BJ's Wholesale Club, Inc., John Does 1-10 and XYZ Corporations 1-10.

PARTIES

1. Plaintiffs are adult individuals, husband and wife, both residing at 450 Sooy Place Road, Vincentown, Burlington County, NJ 08088. Plaintiffs are both citizens, residents and domiciliaries of the State of New Jersey.
2. Defendant, BJ's Wholesale Club, Inc., is, upon information and belief, a corporation, partnership or other business entity that is incorporated in Massachusetts and has a principal place of business at 25 Research Drive, Westborough, MA 01581 (hereinafter, "BJ's").
3. Defendants, John Does 1-10 are yet-to-be-ascertained individuals who may be liable to Plaintiffs for the injuries complained of herein.
4. Defendants, XYZ Corporations 1-10 are yet-to-be-ascertained corporate entities who may be liable to Plaintiffs for the injuries complained of herein.

JURISDICTION AND VENUE

5. The matter in controversy exceeds the sum of \$75,000.00, exclusive of interest and costs.
6. Jurisdiction is conferred upon this court pursuant to 28 U.S.C. § 1332, as there is complete diversity of citizenship between the parties.
7. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2), as the personal injuries that are the subject of this litigation occurred in Manahawkin, NJ, which is within this District.

FACTS

8. On or about June 20, 2016, Ms. Manheimer was a lawful patron and business invitee at the BJ's Wholesale Club location in Manahawkin, NJ (the "Assault Date").

9. On the Assault Date, at or around 8:00 p.m., Ms. Manheimer returned to her vehicle that had previously been parked in the BJ's parking lot, with the various items that she had purchased during her BJ's store visit.
10. On the Assault Date, Ms. Manheimer, a then-28 year-old married woman, was shopping at BJ's by herself, without her husband, or anyone else.
11. After Ms. Manheimer loaded her purchased items into her vehicle, a man attempted to strangle her from behind, using his left arm around her neck and used a "taser" device to attempt to overcome her.
12. In the process of a prolonged struggle, the assailant, later ascertained to be an undocumented immigrant, Gustavo Javier Franco Caraballo ("Mr. Caraballo"), forcefully fondled Ms. Manheimer's breasts.
13. While in the fight for her life, Ms. Manheimer saw Mr. Caraballo in the rearview mirror, attempting to have his way with her, in horror movie fashion.
14. After Ms. Manheimer was incredibly able to escape the grasp of Mr. Caraballo, he fled and was apprehended by the Stafford Township Police Department and was criminally charged.
15. After Mr. Caraballo was apprehended, the police investigation revealed that Mr. Caraballo had, in broad daylight, been permitted to stalk and wait for Ms. Manheimer to return from the BJ's store so that he could implement the element of extreme surprise when he attacked her from behind while he was seated in the back seat of her vehicle and she had just sat down in the driver's seat.

COUNT ONE – NEGLIGENCE

MEREDITH MANHEIMER v. DEFENDANTS

16. Plaintiffs incorporate, by reference, the foregoing paragraphs, as though set forth fully

herein.

17. As the direct and proximate cause of Defendants' negligence as stated above, Ms. Manheimer has suffered severe permanent physical and mental injury.
18. The injuries that Ms. Manheimer has sustained are permanent in nature. Ms. Manheimer has suffered great physical and mental pain and anguish, and in all reasonable probability, will continue to suffer in this manner for a long time in the future, if not for the balance of her natural life.
19. As a further result of the above negligent acts committed by Defendants, Ms. Manheimer has incurred substantial medical expenses for medical care and attention and will continue to incur additional medical expenses into the foreseeable future.
20. In addition, Ms. Manheimer has suffered economic injury and will likely continue to suffer such economic injury.
21. Defendants had a duty to Ms. Manheimer and other patrons/business invitees similarly situated, to patrol, surveil and otherwise keep safe, its parking lot.
22. Moreover, Defendants had a duty to take measures to ensure that Ms. Manheimer and other patrons/business invitees similarly situated would not be stalked and attacked in its parking lot at all hours of the day.
23. Defendants breached said duties, as set forth below.
24. As a direct and proximate result of the aforesaid acts, omissions, recklessness, carelessness, and/or negligence on the part of Defendants, Mr. Caraballo was, in unrestrained fashion, permitted to stalk and attack Ms. Manheimer in the BJ's parking lot.
25. As a result, Ms. Manheimer has suffered severe personal injuries; has been and will be in the future, made to endure great pain and suffering, both physical and mental in nature, has

been and will be in the future required to expend great sums of money for medical services; has been and will be in the future prevented from attending to her regular activities, duties and responsibilities; has been and will in the future be made to suffer lost earnings, other pecuniary loss and has sustained damage to her marriage.

26. As the result of the above-referenced unconscionable incident, Ms. Manheimer suffered painful and serious injuries, including, but not limited to: peripheral neuropathy, bruising and scarring as the result of the electrical exposure from the "taser" strikes, headaches and other pain throughout her body, along with numerous permanent psychological, psychiatric and sexual maladies occasioned by the horror of living to remember the details of an undocumented immigrant having stalked her to her parked vehicle and attacking her with a "taser" and forcefully fondling her breasts against her will.

27. As a result of such incident, Ms. Manheimer has incurred medical expenses and will continue to incur said medical expenses for an indefinite time into the future.

28. As a result of such incident, Ms. Manheimer suffered grievous pain and suffering and may continue to suffer same for an indefinite time into the future.

29. As a further result of such incident, Ms. Manheimer has suffered and will continue to suffer a loss of life's pleasures.

30. As a further result of such incident, Ms. Manheimer has suffered and will continue to suffer marital strife.

WHEREFORE, Plaintiff, Meredith Manheimer demands judgment against the Defendants, in an amount in excess of \$150,000.00, plus costs, fees and whatever additional relief that this Honorable Court deems just and appropriate.

COUNT TWO – LOSS OF CONSORTIUM

TYLER MANHEIMER v. DEFENDANTS

31. Plaintiffs incorporate, by reference, the foregoing paragraphs, as though set forth fully herein.
32. At the time of the incident complained of in the Plaintiffs' Complaint, the Plaintiffs were married and the Plaintiffs continue to be married.
33. As a result of the wrongful and negligent acts of the Defendants, Mr. Manheimer was caused to suffer, and will continue to suffer in the future loss of consortium, loss of society, affection, assistance, and conjugal fellowship of Ms. Manheimer, all to the detriment of their marital relationship.
34. All of the aforesaid injuries and damages were caused solely and proximately by the negligence of the Defendants.

WHEREFORE, Plaintiff, Tyler Manheimer demands judgment against the Defendants, in an amount in excess of \$150,000.00, plus costs, fees and whatever additional relief that this Honorable Court deems just and appropriate.

July 5, 2017

THE BARRIST FIRM, LLC



Adam S. Barrist, Esq.
THE BARRIST FIRM, LLC
2 Eves Drive, Suite 105
Marlton, NJ 08053

Attorney for Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MEREDITH MANHEIMER

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TYLER MANHEIMER (h/w)

Plaintiffs,

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BJ'S WHOLESALE CLUB, INC.

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JOHN DOES 1-10 (said names being fictitious)

and

XYZ CORPORATIONS 1-10 (said names being
fictitious)

Defendants.

CIVIL ACTION

No. _____

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, Plaintiffs, Meredith Manheimer and Tyler Manheimer, hereby demand a trial by twelve (12) jurors.

Date: July 5, 2017

THE BARRIST FIRM, LLC

A handwritten signature in dark ink, appearing to read 'Adam S. Barrist', is written over a faint, circular embossed seal. The seal contains text that is mostly illegible but appears to include 'THE BARRIST FIRM, LLC' and 'MARLTON, NJ'.

Adam S. Barrist, Esq.
THE BARRIST FIRM, LLC
2 Eves Drive, Suite 105
Marlton, NJ 08053

Attorney for Plaintiffs